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[Additional counsel appear on signature page]

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SHELDON SCHWARTZ Derivatively On
Behalf of NIMBLE STORAGE

Plaintiff,

v.

SURESH VASUDEVAN, VARUN MEHTA,
FRANK CALDERONI, JAMES J. GOETZ,
WILLIAM D. JENKINS, JR., JERRY M.
KENNELLY, PING LI, WILLIAM J.
SCHROEDER, ANUP V. SINGH, DANIEL T.
LEARY, UMESH MAHESHWARI,

Defendants,

-and-

NIMBLE STORAGE, INC., a Delaware
corporation,

Nominal Defendant.

Case No. 5:16-CV-00892-YGR

STIPULATION AND ~~PROPOSED~~
ORDER CONSOLIDATING
DERIVATIVE ACTIONS, APPOINTING
LEAD COUNSEL FOR PLAINTIFFS,
AND STAYING PROCEEDINGS

Filed: February 23, 2016

[Caption continued on next page.]

1 ARTHUR GOLDSTEIN, derivatively and on)
behalf of NIMBLE STORAGE, INC.,)

2)
3 Plaintiff,)

4 v.)

5 SURESH VASUDEVAN, ANUP V. SINGH,)
6 FRANK CALDERONI, JAMES J. GOETZ,)
7 WILLIAM D. JENKINS, JR., JERRY M.)
KENNELLY, PING LI, VARUN MEHTA,)
WILLIAM J. SCHROEDER, DANIEL T.)
LEARY and UMESH MAHESHWARI,)

8 Defendants,)

9 -and-)

10 NIMBLE STORAGE, INC., a Delaware)
11 corporation,)

12 Nominal Defendant.)
13)
14)
15)
16)
17)
18)
19)
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26)
27)
28)

Case No. 5:16-CV-02238-YGR

Filed: April 26, 2016

1 **WHEREAS**, there are presently two shareholder derivative actions currently pending in
 2 this district against the Individual Defendants,¹ who are certain current and former directors and
 3 officers of nominal defendant Nimble Storage, Inc. (“Nimble”) (Nimble, together with the
 4 Individual Defendants, being collectively referred to herein as “Defendants”): *Schwartz v.*
 5 *Vasudevan, et al.*, Case No. 5:16-cv-00892-YGR; and *Goldstein v. Vasudevan, et al.*, Case
 6 No. 5:16-CV-02238-YGR (together, the “Derivative Actions”);

7 **WHEREAS**, three putative class actions alleging violations of the federal securities laws
 8 filed against Nimble and certain Nimble officers were also filed and are pending in this district:
 9 *Vikramkumar v. Nimble Storage, Inc., et al.*, Case No. 4:15-cv-05803-YGR; *Guardino v. Nimble*
 10 *Storage, Inc., et al.*, Case No. 3:15-cv-05991-YGR; and *Madhani v. Nimble Storage, Inc., et al.*,
 11 Case No. 4:16-cv-00629-YGR (collectively, “the Securities Class Action”);

12 **WHEREAS**, on March 28, 2016, the Court entered an “Order Granting Arkansas Teacher
 13 Retirement System’s Motion for Consolidation, Appointment as Lead Plaintiff, and Approval of
 14 Selection of Counsel” (Doc. No. 69);

15 **WHEREAS**, on May 12, 2016, the Court entered a Related Case Order in the Securities
 16 Class Action (Doc. No. 84), relating and reassigning the *Schwartz* Action and the Securities Class
 17 Action to this Court;

18 **WHEREAS**, on May 16, 2016, the Court entered a Related Case Order in the Securities
 19 Class Action (Doc. No. 88), relating and reassigning the *Goldstein* Action and the Securities Class
 20 Action to this Court;

21 **WHEREAS**, while the Derivative Actions assert different claims for liability, they
 22 involve some of the same parties and factual allegations as the Securities Class Action;

23 **WHEREAS**, defendants named in the Securities Class Action plan to file a motion to
 24 dismiss the Securities Class Action;

25
 26
 27 ¹ The “Individual Defendants” include Suresh Vasudevan, Varun Mehta, Frank Calderoni,
 28 James J. Goetz, William D. Jenkins, Jr., Jerry M. Kennelly, Ping Li, William J. Schroeder,
 Anup V. Singh, Daniel T. Leary, and Umesh Maheshwari.

WHEREAS, in an effort to assure consistent rulings and decisions and the avoidance of unnecessary duplication of effort, the undersigned counsel for the parties submit this renewed stipulation to consolidate the Derivative Actions;

WHEREAS, Johnson & Weaver, LLP and Lifshitz & Miller seek to be designated as Lead Counsel in the Derivative Actions, once consolidated, and Defendants take no position with respect to such designation; and

WHEREAS, based upon the circumstances unique to this case, and to avoid the unnecessary expenditure of judicial resources before resolution of the anticipated motion to dismiss the Securities Class Action, the parties to this action have further agreed, subject to this Court's approval, to stay the consolidated action, including motions practice and discovery, in a manner substantially similar to the Order Regarding Response to Complaint and Stay of Litigation entered in the *Schwartz* Action on April 20, 2016.

WHEREFORE, the parties, through their undersigned counsel, hereby agree, stipulate, and respectfully request that the Court enter an Order as follows:

1. The following actions shall be consolidated for all purposes, including pre-trial proceedings and trial, into one action (the "Consolidated Derivative Action"):²

<u>Case Name</u>	<u>Case No.</u>	<u>Filing Date</u>
<i>Schwartz v. Vasudevan, et al.</i>	5:16-CV-00892-YGR	February 23, 2016
<i>Goldstein v. Vasudevan, et al.</i>	5:16-CV-02238-YGR	April 26, 2016

2. Every pleading filed in the Consolidated Derivative Action, or in any separate action included herein, must bear the following caption:

² For clarity, the Securities Class Action should not be consolidated with the Derivative Actions. While the actions are related under Civil Local Rule 3-12, they are not suitable for consolidation because, among other reasons, the Securities Class Action alleges violations of the federal securities laws against Nimble, whereas the Derivative Actions bring claims purportedly *on behalf of* Nimble.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

IN RE NIMBLE STORAGE, INC.
DERIVATIVE LITIGATION,

Lead Case No.: 5:16-cv-00892-YGR
(Derivative Action)

This Document Relates To:

ALL ACTIONS.

3. The files of the Consolidated Derivative Action will be maintained in one file under Lead Case No.: 5:16-cv-00892-YGR.

4. Lead Counsel for plaintiffs for the conduct of the Consolidated Derivative Action is designated as follows:

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-and-

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5. The parties agree that plaintiffs' Lead Counsel has authority to speak for plaintiffs in matters regarding pre-trial procedure, trial, and settlement negotiations and shall make all work assignments in such manner as to facilitate the orderly and efficient prosecution of this litigation and to avoid duplicative or unproductive effort.

6. The parties agree that plaintiffs' Lead Counsel will be responsible for coordinating all activities and appearances on behalf of plaintiffs and for the dissemination of notices and orders of this Court. The parties further agree that no motion, request for discovery, or other pre-trial or trial proceedings will be initiated or filed by any plaintiffs except through plaintiffs' Lead Counsel.

7. The parties agree that Defendants' counsel may rely upon all agreements made with plaintiffs' Lead Counsel, or other duly authorized representative of plaintiffs' Lead Counsel, and such agreements will be binding on plaintiffs.

8. This Order shall apply to each purported derivative action arising out of the same or substantially the same transactions or events as the Nimble Derivative Actions, which is subsequently filed in, removed to, or transferred to this Court.

9. When a case that properly belongs as part of the Consolidated Derivative Action is hereafter filed in this Court or transferred here from another court, counsel shall promptly call to the attention of the Clerk of the Court the filing or transfer of any case that might properly be consolidated as part of the Consolidated Derivative Action.

10. The parties agree to stay the Consolidated Derivative Action until the earlier of either of the following events: (i) the Securities Class Action is dismissed with prejudice; or (ii) Defendants file an answer in the Securities Class Action.

11. Defendants shall have no obligation to respond to the complaints filed in either of the Derivative Actions so long as the case remains stayed.

12. In the event that any discovery is provided or produced by Defendants to plaintiffs in any related derivative action purportedly brought on behalf of Nimble arising from similar facts as the instant action, Defendants will at or about the same time notice plaintiffs and provide copies of that discovery to plaintiffs in the Consolidated Derivative Action, provided that the parties have executed and the Court has entered a protective order.

13. Plaintiffs will have thirty (30) days from when the Securities Class Action is dismissed with prejudice or Defendants file an answer in the Securities Class Action to enter into a stipulation with Defendants and/or seek leave to file an amended derivative complaint or, in the alternative, designate an operative complaint. Defendants will answer, move against, or otherwise respond to the amended derivative complaint or the designated operative complaint as the case may be within forty-five (45) days after plaintiffs file an amended derivative complaint or designate an operative complaint.

1 14. Defendants shall notify Lead Counsel for plaintiffs in the Consolidated Derivative
2 Action of any formal settlement meetings, mediations, or settlement conferences that might be
3 held in any currently filed, subsequently filed, or threatened derivative actions that are based on
4 the same or substantially similar allegations as made in the Consolidated Derivative Action.

5 15. By entering into this stipulation, the parties do not waive any rights or defenses,
6 procedural or otherwise, not specifically addressed herein, and reserve their respective rights to
7 file any application, request or motion with the Court they deem appropriate once this case is no
8 longer deferred.

9 16. At any time during which the prosecution of this Consolidated Derivative Action is
10 stayed pursuant to the Order, any party may file a motion with the Court seeking to modify the
11 terms of the Order, which may be opposed by any other party.

12 **IT IS SO STIPULATED.**

13
14 Dated: June 10, 2016

JOHNSON & WEAVER, LLP
FRANK J. JOHNSON

15
16 By: /s/Frank J. Johnson

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24 *Attorneys for Plaintiff Arthur Goldstein*
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1 Dated: June 10, 2016

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Attorneys for Plaintiff Sheldon Schwartz

13 Dated: June 10, 2016

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Attorneys for Defendants

SIGNATURE ATTESTATION

I am the ECF user whose identification and password are being used to file the foregoing Joint Stipulation and Proposed Order Temporarily Deferring Prosecution of Derivative Action. In compliance with Local Rule 5-1(i)(3), I hereby attest that concurrence in the filing of this document has been obtained.

Dated: June 10, 2016

/s/ Frank J. Johnson
Frank J. Johnson

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: June 14, 2016


HON. YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT JUDGE